

P.L. 88-485

LAWS OF 88TH CONG.—2ND SESS.

Aug. 22

PACIFIC ISLANDS TRUST TERRITORY—CLAIMS

PUBLIC LAW 88-485; 78 STAT. 598

[H. R. 1988]

An Act to provide for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The Congress hereby assumes compassionate responsibility to compensate inhabitants in the Rongelap Atoll, in the Trust Territory of the Pacific Islands, for radiation exposures sustained by them as a result of a thermonuclear detonation at Bikini Atoll in the Marshall Islands on March 1, 1954.

Sec. 2. There is authorized to be appropriated for such purpose out of the Treasury of the United States the sum of \$950,000 to be expended by the Secretary of the Interior (hereinafter referred to as the "Secretary") in the manner hereinafter provided. After deducting the amount provided for in section 5 hereof, the Secretary shall pay the remainder in equal amounts to each of the affected inhabitants of Rongelap, except that (a) with respect to each such inhabitant who has died before receipt of such payment, the Secretary shall pay such sum to the heirs or legatees of such inhabitant, and (b) with respect to any such inhabitant who is less than twenty-one years of age or who has been adjudged incompetent or insane, payment shall be made, in the discretion of the Secretary, to a parent, relative, other person, or institution for his benefit.

Sec. 3. The Secretary shall give advice concerning prudent financial management to each person receiving a payment pursuant to this Act, to the end that each such person will have information as to methods of conserving his funds and as to suitable objects for which such funds may be expended.

Sec. 4. A payment made under the provisions of this Act shall be in full settlement and discharge of all claims against the United States arising out of the thermonuclear detonation on March 1, 1954.

Sec. 5. The Secretary is authorized to pay reasonable attorney fees for legal services rendered on behalf of the people of Rongelap prior to the date of enactment of this Act. Such fees shall be paid out of the funds authorized to be appropriated in section 2 of this Act, but the total of such fees paid shall not exceed 5 per centum of the appropriated funds.

Sec. 6. The decisions of the Secretary in carrying out the provisions of this Act shall be final and not subject to review.

Approved August 22, 1964.

BEST COPY AVAILABLE

This came to about \$10,000 per person for fallout victims on Rongelap. Utirik got nothing.

686

Interior refers to this as "ex-gratia" payment; i. e. as a matter of grace, favor, or indulgence; gratuitous.

Oct. 15, 1977

SHOSHONE

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PUBLIC LAW 95-134 [H.R. 6550]; Oct. 15, 1977

AUTHORIZATION, APPROPRIATION— U.S. TERRITORIES

For Legislative History of Act, see p. 4544

An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) Section 2 of the Act of June 30, 1954 (68 Stat. 330), as amended, is further amended by changing "and such amounts as were authorized but not appropriated for fiscal year 1975," to read "and such amounts as were authorized but not appropriated for fiscal years 1975, 1976, and 1977; for fiscal year 1978, \$90,000,000; for fiscal year 1979, \$122,700,000; for fiscal year 1980, \$112,000,000;".

(b) Section 2 of the Act of June 30, 1954 (68 Stat. 330), as amended, is further amended by (1) deleting "but not to exceed \$10,000,000," and (2) deleting all of the language beginning with the words "which amounts for each fiscal year" up to and including the words "calendar year 1974,".

SEC. 102. Until the provisions of the covenant to establish a Commonwealth for the Northern Mariana Islands (90 Stat. 263) have been met and approved as required in section 1003(b) thereof, there is hereby authorized to be appropriated \$13,515,000 for the government of the Northern Mariana Islands. When such conditions are met, the appropriations authorized in article VII, section 704, of said covenant shall become effective.

SEC. 103. For the rehabilitation and resettlement of Eniwetok Atoll in the Trust Territory of the Pacific Islands there is hereby authorized to be appropriated \$12,400,000 (July 1976 prices) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved.

SEC. 104. (a) In addition to appropriations authorized to compensate inhabitants of Rongelap Atoll and Utrik Atoll in the Trust Territory of the Pacific Islands for radiation exposure sustained by them as a result of a thermonuclear detonation at Bikini Atoll in the Marshall Islands on March 1, 1954, pursuant to the Act of August 22, 1964 (78 Stat. 598), effective October 1, 1977, there are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this section and the Secretary of the Interior (hereafter in this section referred to as the "Secretary") is authorized and directed to make the payments as hereafter provided in this paragraph to individuals, or to their heirs or legatees, as the case may be, who were on March 1, 1954, residents on Rongelap Atoll or Utrik Atoll in the Marshall Islands:

(1) The Secretary shall pay \$25,000 to each such individual from whom the thyroid gland or a neurofibroma in the neck was surgically removed, or who has developed hypothyroidism, or who develops a radiation-related malignancy, such as leukemia.

(2) The Secretary shall pay \$1,000 to each individual who, on such date, was a resident on Utrik Atoll.

Territories of the United States.
Appropriation authorization.

Trust Territory of the Pacific Islands.
48 USC 1681 note.

Northern Mariana Islands.
48 USC 1681 note.

Eniwetok Atoll.

Rongelap Atoll and Utrik Atoll.
Radiation victims.

Payments to heirs or legatees.

(3) Where circumstances warrant, as he shall determine, the Secretary shall pay an amount not in excess of \$25,000 as he determines to be an appropriate compassionate compensation to each such individual who has suffered any physical injury or harm from a radiation-related cause but who is not an individual described in paragraph (1).

Medical care and treatment.

(4) In addition to the payments provided in paragraphs (1), (2), and (3) of this subsection, the Secretary shall provide by appropriate means adequate medical care and treatment for any person who has a continuing need for the care and treatment of any radiation injury or illness directly related to the thermonuclear detonation referred to in paragraph (a) of this section. The costs of such medical care and treatment shall be assumed by the Administrator of the Energy Research and Development Administration.

Costs.
Report to congressional committees.

(5) Not later than December 31, 1980, the Secretary shall report to the appropriate committees of the United States Congress for their consideration what, if any, additional compassionate compensation may be justified for those individuals continuing to suffer from injuries or illnesses directly related to radiation resulting from the thermonuclear detonation referred to in paragraph (a) of this section.

Additional payment, limitation.

In the case of the demise of any individual entitled to receive payment under this section who expires before receiving such payment, the Secretary shall pay the amount which that individual would have been entitled to receive under this section to the heirs or legatees of such individual, in accordance with an appropriate method of distribution per stirpes, and not per capita. Where the demise of any individual eligible for payment under paragraph (1) or (3) supra is directly related to the thermonuclear detonation referred to in paragraph (a) of this section, the Secretary may make an additional compassionate payment not to exceed \$100,000 to the heirs or legatees of such individual. In determining the amount of such payment the Secretary shall consider, but is not limited to, the following: any payments which the deceased has received or would have been eligible to receive under this section, and loss of support, services, or contributions to the heirs or legatees.

Rongelap, Utirik, and Bikini Atolls, sums for community purposes.

(b) For the use of each of the island communities of Rongelap, Utirik, and Bikini Atolls there is authorized to be appropriated \$100,000. Such funds are to be paid by the Secretary, in conjunction with guidelines to be established by the High Commissioner of the Trust Territory of the Pacific Islands, for such community purposes as the municipal councils of such island communities may direct.

(c) A payment made under the provisions of this section shall be in full settlement and discharge of all claims against the United States arising out of the thermonuclear detonation on March 1, 1954.

(d) The decisions of the Secretary in allowing or denying any claim for payment under this section shall be final and conclusive on questions of law and fact and not subject to review by any other official of the United States, or by any court by mandamus or otherwise.

(e) The Secretary is authorized to make such rules and regulations as he determines necessary to carry out the provisions of this section.

Rules and regulations. Adjudicated claims and final awards. 50 USC app. 2018.

Sec. 105. In addition to amounts heretofore authorized pursuant to the Micronesian Claims Act of 1971 (85 Stat. 96), there are authorized to be appropriated to the Secretary of the Interior sums as may be necessary to satisfy all adjudicated claims and awards made by the Micronesian Claims Commission to date.

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title I and title II of said 1971 Act, for full payment of such awards:
Provided, That no sums appropriated pursuant to this section may be
paid on awards pursuant to title I of said 1971 Act until, subsequent
to the date of enactment of this section, the Government of Japan has
provided to the Government of the Trust Territory of the Pacific
Islands a contribution, which contribution may be in goods and serv-
ices, which has a value as determined by the Secretary of the Interior
equivalent to not less than 50 per centum of the total awards made
pursuant to title I of said 1971 Act less \$10,000,000 from such total:
Provided further, That prior to making any payment on an award
pursuant to either title I or title II of said 1971 Act, the Secretary
shall review such award and determine whether any portion of such
award constitutes interest not authorized to be awarded under the said
1971 Act and shall exclude from his payment such amounts as he deter-
mines constitute such interest. The Secretary's determination of the
proportion of any award which constitutes such interest and the pro-
portion which constitutes value shall be final and shall not be subject
to judicial review.

TITLE II

SEC. 201. (a) There is hereby authorized to be appropriated to the
Secretary of the Interior (hereinafter referred to as the Secretary),
not to exceed \$15,000,000 for a grant to the Government of Guam to
assist in typhoon rehabilitation, upgrading and construction of public
facilities, and maintenance of essential services.

(b) Funds provided under this Act may be used by Guam as its
matching share for Federal programs and services.

(c) The Government of Guam in carrying out the purpose of this
Act may utilize, to the extent practicable, the available services and
facilities of agencies and instrumentalities of the United States Gov-
ernment on a reimbursable basis. Reimbursements may be credited to
the appropriation or fund which provided the services and facilities.
Agencies and instrumentalities of the United States Government may,
when practicable, make available to the Government of Guam upon
request of the Secretary such services and facilities as they are equipped
to render or furnish, and they may do so without reimbursement if
otherwise authorized by law.

(d) The Secretary may place such stipulations as he deems appro-
priate on the use of funds appropriated pursuant to section 301(a).

SEC. 202. Section 2 of the Guam Development Fund Act of 1968
(82 Stat. 1172; 48 U.S.C. 1428) is amended by changing "Sec. 2." to
"Sec. 2. (a)" and adding at the end thereof the following new sub-
section (b):

"(b) In addition to the appropriations authorized in subsection
(a), \$1,000,000 is authorized to be appropriated to the Secretary of
the Interior to be paid to the Government of Guam annually for five
fiscal years commencing in fiscal year 1978 to carry out the purposes
of this Act."

SEC. 203. The Organic Act of Guam (64 Stat. 394) as amended (48
U.S.C. 1421 et seq.) is further amended:

(a) by deleting from the first sentence of section 9-A(a)
everything after the words "government of Guam"; adding a
period after "Guam"; and inserting the following sentence:
"Effective October 1, 1977, the salary and expenses of the Comp-
troller's office shall be paid from funds authorized to be appro-
propriated to the Department of the Interior.";

50 USC app.
2019, 2020.

Contribution by
Government of
Japan.

Award, review.

Government of
Guam.

Services and
facilities of U.S.
Government,
utilization.

Post, p. 1162.

Additional
appropriation
authorizations.

Government
comptroller,
salary and
expenses.
48 USC 1422d.

48 USC 1681b.

Separate tax.
48 USC 1421i.District Court of
Guam, review of
claims.
48 USC 1424c.Land acquisitions
effected through
judicial
condemnation
proceedings.
Fair
compensation.Special masters
or judges,
employment.Attorney's fees,
limitation.Violation,
penalty.Grants to
Government of
Guam.Government
comptroller,
salaries and
expenses.

(b) the Act of June 30, 1954 (68 Stat. 330), as amended, is further amended by deleting the last sentence of section 4(a);

(c) by changing the period at the end of section 31(a) to a colon and inserting the following: "Provided, That notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam."

SEC. 204. (a) Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through judicial condemnation proceedings, in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, by the United States between July 21, 1944, and August 23, 1963, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of (1) duress, unfair influence, or other unconscionable actions, or (2) unfair, unjust, and inequitable actions of the United States.

(b) Land acquisitions effected through judicial condemnation proceedings in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, shall remain res judicata and shall not be subject to review hereunder.

(c) Fair compensation for purposes of this Act is defined as such additional amounts as are necessary to effect payment of fair market value at the time of acquisition, if it is determined that, as a result of duress, unfair influence, or other unconscionable actions, fair market value was not paid. Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section.

(d) The District Court of Guam may employ and utilize the services of such special masters or judges as are necessary to carry out the intent and purposes hereof.

(e) Awards made hereunder shall be judgments against the United States.

(f) Attorney's fees paid by claimants to counsel representing them may not exceed 5 per centum of any additional award. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both. A reasonable attorney's fee may be awarded in appropriate cases.

(g) All agencies and departments of the United States Government shall, upon request, deliver to the court any documents, records, and writings which are pertinent to any claim under review.

SEC. 205. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants to the Government of Guam to meet the health care needs of Guam, but not to exceed \$25,000,000: *Provided*, That no grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

TITLE III.

SEC. 301. (a) The Revised Organic Act of the Virgin Islands (68 Stat. 504) as amended (48 U.S.C. 1599) is further amended as follows: Delete from the first sentence of section 17(a) everything after the

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follows:
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words "government of the Virgin Islands", add a period after "Virgin Islands" and insert the following sentence: "Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior."

(b) Section 9(d) of the Revised Organic Act of the Virgin Islands (68 Stat. 497; 48 U.S.C. 1541 et seq.) is amended by inserting immediately before the period at the end thereof the following: ", unless the legislature, after reconsideration upon motion of a member thereof, passes such items, parts, or portions so objected to by a vote of two-thirds of all the members of the legislature."

(c) Section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended by adding at the end thereof the following new subsection:

"(f) (1) The Legislature of the Virgin Islands may impose on the importation of any article into the Virgin Islands for consumption therein a customs duty. The rate of any customs duty imposed on any article under this subsection may not exceed—

"(A) if an ad valorem rate, 6 per centum ad valorem; or

"(B) if a specific rate or a combination ad valorem and specific rate, the equivalent of 6 per centum ad valorem.

"(2) Nothing in this subsection shall prohibit the Legislature of the Virgin Islands from permitting the duty-free importation of any article.

"(3) Nothing in this subsection shall be construed as empowering the Legislature of the Virgin Islands to repeal or amend any provision in law in effect on the day before the date of the enactment of this subsection which pertains to the customs valuation or customs classification of articles imported into the Virgin Islands."

Legislative
procedure.
48 USC 1575.

Customs duty.

Rate, limitation.

Duty-free
importation.

TITLE IV

SEC. 401. The Secretary of the Interior is directed to submit to the Congress not later than January 1, 1978, a report on Federal programs available to the territories of the United States indicating in such report what programs are available to each territory, what additional programs would be of benefit to such territory if made available, what changes or modifications to each program should be made to improve the operation and effectiveness of each program and the estimated costs of such program. There is hereby authorized to be appropriated for fiscal year 1978 \$50,000 to assist the Secretary in the preparation of this report.

SEC. 402. In order to compensate the territories of Guam and the Virgin Islands for unexpected revenue losses occasioned by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 there is hereby authorized to be appropriated to the Secretary for grants to the government of Guam not to exceed \$15,000,000 and after October 1, 1977, for grants to the government of the Virgin Islands not to exceed \$14,000,000, such sums being in addition to those previously authorized for such purposes.

SEC. 403. Effective on the date of enactment of this Act, those laws, except for any laws administered by the Social Security Administration and except for medicaid which is now administered by the Health Care Financing Administration, which are referred to in section 502 (a) (1) (except for the reference to the Micronesian Claims Act of 1971 (85 Stat. 96)) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24,

Federal programs,
availability to
U.S. territories.
Report to
Congress.
43 USC 1457
note.

Guam and the
Virgin Islands.
26 USC 7651
note.
26 USC 1 note.

48 USC 1681
note.

90 Stat. 268.
50 USC app.
2018.

shall be applicable on the same terms as the Insular Area of the Commonwealth of the

by existing applicant-in-aid programs in Samoa, the Trust Territory of the Northern Mariana Islands") it is hereby

the contrary, any United States which provides for payments received may be used for other purposes (other than, acting through a department or agency, for any fiscal year

area shall not be less than otherwise be entitled

ant shall be expended for purposes authorized for which are authorized by a department or agency to be used for such purposes, but the of the funds granted for such purposes.

ants-in-aid shall, by provide the method by which application for a grant not more than one year be required by any department is transmitted to the Congress together with requiring such additional such department or agency grant: *Provided*, That the department or agency conducting, auditing, evaluating, and receiving benefits from the authority of any department or agency requirement for a grant be provided by the

Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Approved October 15, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-228 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-332 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 123 (1977):

May 2, considered and passed House.

July 25, considered and passed Senate, amended.

Sept. 27, House agreed to certain Senate amendments with amendments.

Sept. 28, Senate concurred in House amendments with an amendment.

Sept. 29, 30, House concurred in Senate amendment with an amendment.

Sept. 30, Senate concurred in House amendment.

1976 (90 Stat. 263), and 502(a) (2) of said Covenant shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Commonwealth of the Northern Mariana Islands.

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TITLE V

Insular Areas.
48 USC 1469a.

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

Consolidation of
grants.

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

Allocation of
funds.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

Grants-in-aid
regulations:
publication in
Federal Register.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the

Waivers.

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